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STATE TO SUE US CORPS OF ENGINEERS

BISMARCK – The State of North Dakota is taking action to stop the US Army Corps of Engineers (Corps) from endangering the state's fisheries and from violating state clean water standards. By taking the first step today, Attorney General Wayne Stenehjem will seek a court order preventing the Corps from lowering the level of Lake Sakakawea to a historic low.

The lawsuit is being filed in response to a recent Corps forecast indicating that levels at Lake Sakakawea will drop to 1814.7 ft by the end of August and to 1806.7 ft by the end of February 2004. The Corps controls water flow through the Missouri River basin based on operating standards established in the 1979 Master Manual. The manual, which has been under revision for over 14 years, serves as the center of controversy in a struggle between downstream navigation and upstream recreation and tourism interests.

Over the last two years Governor John Hoeven and Attorney General Stenehjem have demanded a more responsible approach to Missouri River basin management. Yet, with latest water level forecast, it is likely that the fish population in Lake Sakakawea will be severely impacted. "If the Corps is allowed to release water downstream at the forecasted rate, it will create long-term damage to Lakes Sakakawea and Oahe and our world-class fisheries," declared Governor Hoeven. He noted that only 15 of 85 boat ramps are usable at the 1815 ft level, and at lower levels, most of the ramps will be left high and dry.

Attorney General Stenehjem raised concerns about water quality. "North Dakota has clean water standards that must be met by not only citizens of the state, but also the federal government," stated Stenehjem. He continued, "Our lawsuit is notice to the federal government that it too has duties to be a responsible citizen." Stenehjem noted that the first steps of the lawsuit coincide with the filing by the leadership of both legislative houses of a delayed bill amending the state's clean water act.

Senate Bill 2419 will allow a court to grant penalties up to \$25,000 per day per violation when an entity violates a court order granting injunctive relief. Stenehjem emphasized, "This is comparable to penalties under the federal Clean Water Act. We want to make sure that the Corps understands the gravity of the situation." His concerns were echoed by Senate Majority Leader Bob Stenehjem who stated, "Legislative leadership recognizes the need to ensure that entities, including the federal government, are punished for violating court orders issued to protect our precious water resources." He promises the legislation will be put on a fast track to assure its enactment as soon as possible. The delayed bill will have its first hearing next week.

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